

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

NASON HOMES, LLC,

Plaintiff,

v.

BILLY'S CONSTRUCTION, INC.  
d/b/a BILL MACE HOMES, BILL  
MACE, individually and KENNETH  
FOOTE, individually,

Defendants.

CIVIL ACTION FILE  
NO. 3:14-cv-0566  
CHIEF JUDGE HAYNES

**PLAINTIFF NASON HOME'S STATEMENT OF FACTS**  
**NOT IN DISPUTE**

1. Nason Homes is a residential home construction company which has developed a reputation in Georgia and Tennessee for construction excellence. Exhibit 1, Declaration of Stuart Beattie at ¶ 3.
2. Nason Homes is the owner, by assignment, of the copyright in a floor plan called the Alder Plan. Exhibits 2, 3.
3. The *nunc pro tunc* assignment demonstrates that Nason Homes was the owner of all right, title and interest in The Adler design as of January 31, 2012. *See id.*
4. In January 2014, Nason Homes discovered that Defendant Billy's Construction, Inc. d/b/a Bill Mace Homes ("Mace Homes") were in the

process of building a house, which would, upon completion, infringe Nason Home's copyright in the Adler Plan (the "Infringing House"). Exhibit 1 at ¶ 4,5.

5. The Infringing House is virtually an exact replica of The Adler Plan.

Exhibit 1 at ¶ 9-12.

6. There are only two differences between Nason Home's copyrighted Alder Plan and the Infringing Home. First, the Alder Plan calls for some vaulted ceilings, while those ceilings in the Infringing House are flat. Exhibit 1 at 11. Second, the Alder Plan calls for a roof with 8/12 pitch roof from the front to the back and 10/12-pitch on the sides, whereas the Infringing House was built with 8/12-pitch all the way around. *Id.*

7. Defendants Mace Homes and Bill Mace built the house at the encouragement of Defendant Kenny Foote. Dkt. No. 49 at ¶ 41.

8. The floor plan for the Infringing House is not among those that appear on Defendant Mace Homes' website demonstrating that the Infringing House is not based on a typical Bill Mace design. Exhibit 4.

9. Mace Homes, however, placed a picture of the Infringing House on their Facebook page. Exhibit 5.

10. Nason Homes provided a copy of the plans to Brittany Hopkins of Meybohm realty because Meybohm was selling homes on behalf of Nason

Homes. Exhibit 1 at ¶ 6. Meybohm placed a copy of the Alder Plan on the Internet. Exhibit 1 at ¶¶ 6-7.

11. Foote had asked another realtor for a copy of the Alder Plan but was refused. Exhibit 1 at ¶ 8.
12. Nason Homes directed Meybohm to remove the Alder Plan from the Internet after he discovered Defendants' infringement and confirmed that they have been taken down. Exhibit 1 at ¶ 7.
13. Defendant Kenneth Foote had access to the Alder Plan through the Meybohm Realtors website. Exhibit 1 at ¶ 6-7.
14. Defendants Mace Homes and Bill Mace had access to the plans through Defendant Foote whom they admit asked them to build the Infringing House. Dkt. No. 49 at ¶ 41

Respectfully submitted this 19<sup>th</sup> day of February, 2015.

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**LILENFELD PC**

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